IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16454 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL NIRUBEN ARUNKUMAR

Versus

REGIONAL PASS PORT OFFICER

Appearance:

1. Special Civil Application No. 16454 of 2004

MR CA BHAKTA for Petitioner No. 1

MR JITENDRA MALKAN for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 28/12/2004

ORAL JUDGEMENT

#. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction or order directing the respondent passport authority to make necessary rectification in the date of birth mentioned in the passport as stated in the Birth Certificate issued by the competent authority under the provisions of the Birth and Death Registration Act, 1969, as 1st November, 1956

instead of 25th October, 1956 or to issue a fresh passport to the petitioner by mentioning the correct birth date of the petitioner as 1st November, 1956 as mentioned in the certificate issued by the competent authority.

#. The learned advocate appearing on behalf of the petitioner has submitted that through inadvertence petitioner's date of birth is wrongly mentioned in the passport as 25th October, 1956 instead of 1st November, 1956 and the respondent authority has refused to entertain his request to correct the said mistake. Mr.Shah has relied upon the certificate issued by the Mamlatdar, Palsana, which is at Annexure-D to the petition.

#. Shri JM Malkan, learned Standing Counsel appearing for the respondent authority has submitted that the certificate which is relied upon by the petitioner issued by the Mamlatdar, Palsana is of one Hansaben and even the surname of the father of the petitioner is shown as "Gangpore" in the certificate, however, in the earlier passport, her surname is shown as "Patel". Therefore, it is submitted that on the basis of the certificate at Annexure-D date of birth cannot be corrected. At this stage, Mr.Shah appearing for the petitioner has submitted that, in fact, the name Hansaben is her nick name and the name of the petitioner is Niruben and all throughout the petitioner is known as Niruben. Mr.Shah further submitted that the petitioner, in fact, is ready and willing to file necessary affidavit before the appropriate authority. Mr.Malkan submitted that only on the basis of the material given by the petitioner the date of birth was recorded in the passport. He has further submitted that no change in the passport is effected, but for making any correction in the passport, a new passport is normally issued by the authority with correct details if the authority is satisfied with the genuineness of the data to be corrected.

#. Having heard the parties and looking to the facts and circumstances and also the material placed on record, the respondent authority is directed to look into the case of the petitioner on the basis of the evidence already adduced or which may be adduced by the petitioner to correct the date of birth as mentioned above and having satisfied with regard to genuineness of the data to be correct, the respondent authority is directed to take appropriate decision in accordance with law after considering the relevant evidence adduced before him and shall pass an appropriate order as expeditiously as possible.

#. As the respondent authority will have to undertake the exercise of scrutinizing the case of the petitioner afresh because of the default committed by the petitioner in not placing correct facts at an earlier point of time, a sum of Rs.5,000/- is ordered to be paid by the petitioner to the respondent authority by way of costs. The petition is allowed. Rule is made absolute . Direct service is permitted.

(M.R.Shah,J)

(pathan)